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THE CONSTITUTION AND CATHOLIC INDUSTRIAL TEACHING



SOCIAL ACTION SERIES NO. 8

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The pamphlets in the *Social Action Series*, of which this is the **eighth** number, are edited by the Social Action Department of the National Catholic Welfare Conference. They represent an effort to present to the general public, and especially to Catholics, a discussion of current economic facts, institutions and proposals in the United States in their relation to Catholic social teaching, particularly as expounded in Pope Pius XI's Encyclical "Forty Years After—Reconstructing the Social Order" (*Quadragesimo Anno*). In the spirit of that Encyclical they are urged upon and recommended to individuals, study clubs, discussion groups and school classes.

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The Constitution and Catholic Industrial Teaching

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Social Action Series

No. 8

**OUR SUNDAY VISITOR LIBRARY
HUNTINGTON, INDIANA**

Published for

**THE SOCIAL ACTION DEPARTMENT
N. C. W. C.**

by

**THE PAULIST PRESS
401 West 59th Street
New York, N. Y.**

FOREWORD

Monsignor Ryan contends that more generous interpretations of the "general welfare," "due process" and "interstate commerce" clauses of our national Constitution would permit us to pass a very large part of the legislation needed to apply Catholic social teaching.

The recent minimum wage and Wagner-Connery labor relations decisions reversing preceding decisions were written while this pamphlet was in galley proof and are taken into consideration here.

Since the foregoing paragraphs were put in type, one of the decisions of the Supreme Court in the Social Security cases has so revitalized the "general welfare" clause that it now seems to possess actually all the powers attributed to it potentially on page 9 of this pamphlet.

SOCIAL ACTION DEPARTMENT,
NATIONAL CATHOLIC WELFARE CONFERENCE.

Nihil Obstat :

ARTHUR J. SCANLAN, S.T.D.,
Censor Librorum.

Imprimatur :

✠ PATRICK CARDINAL HAYES,
Archbishop of New York.

New York, June 17, 1937.

PRINTED AND PUBLISHED IN THE U. S. A. BY
THE PAULIST PRESS, NEW YORK, N. Y.

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THE teaching of the Church to be considered in this pamphlet is all taken either from the Encyclical of Pope Leo XIII, "On the Condition of Labor," or the Encyclical of Pope Pius XI, "On Reconstructing the Social Order." The specific topics that will be dealt with are: The State, Socialism, Communism, Private Property, Economic Domination, Public Ownership, Wages, Labor Unions, Relations Between Capital and Labor, the Distribution of Wealth and Income and a Reconstructed Economic Order.

In comparing the Papal teaching with the Constitution, we shall consider not merely the words of the latter, but the interpretations that have been put upon those words by the United States Supreme Court. In discussing the latter, we shall take into account other interpretations of which the text is reasonably susceptible.

I. The State

Catholic teaching regards the state as a social institution which is necessary for human welfare. The end of the state is the common good; that is, the welfare of the community as a whole and as composed of families and social classes. "Rulers," said Leo XIII, "should anxiously safeguard the community and all its parts . . . ; because both philosophy and the Gospel agree in laying down that the object

of the administration of the state should be not the advantage of the ruler, but the benefit of those over whom he rules. . . . Civil society exists for the common good, and, therefore, is concerned with the interests of all in general, and with the individual interests in their due place and proportion.”

The functions of the state; that is, the means by which it pursues its end are comprehensively described by both Leo XIII and Pius XI. Said the former :

The first duty, therefore, of the rulers of the state should be to make sure that the laws and institutions, the general character and administration of the commonwealth, shall be such as to produce of themselves public well-being and private prosperity. . . .

Whenever the general interest or any particular class suffers, or is threatened with, evils which can in no other way be met, the public authority must step in to meet them.

The same thought is expressed in substantially the same terms by Pope Pius XI :

The public institutions of the nations must be such as to make the whole of human society conform to the needs of the common good, that is, to the standard of social justice.

Nothing comparable to this comprehensive and specific doctrine is included in the Constitution of the United States. Nor should we expect to find it there. Our federal government is one of delegated, limited and enumerated powers; its functions do not take in all the objects and activities of a unitary

government, as those of France and Great Britain. Only those powers may be exercised by the government of the United States which are explicitly set forth or clearly implied in the words of the Constitution. All other political functions are, in the language of the Tenth Amendment, "reserved to the states or to the people."

Nevertheless, the Constitution contains two clauses which describe specifically the common good or the public welfare as aims of the federal government. The first of these occurs in the Preamble to the Constitution where one of the ends of that instrument is put down as "to promote the general welfare." The other clause deals with means or functions and is found in Article 1, Section 8, paragraph 1, of the body of the Constitution. In that paragraph, Congress is given power to "provide for the common defense and general welfare of the United States."

So much for the words of the Constitution concerning the "general welfare." The judicial interpretation of these words is quite another matter. In this connection the following paragraph from a recent book by William F. Hessler is suggestive and penetrating:

In truth, we have two national constitutions in America. One is the familiar document appended to school-books and dutifully reprinted every year in the *World Almanac*. The other is the immensely longer, unfamiliar mass of verbiage emitted by the Supreme Court in a century and a half. The one is our national fetish and the source of our political institutions. The other, called constitutional law, is the

array of rules and precedents by which we are governed. This heterogeneous accumulation of judicial opinions may be regarded properly as a great bundle of amendments to the original charter.¹

The settled interpretation by the Court is that the phrase "promote the general welfare" in the Preamble is not a grant of power; hence, it does not authorize Congress to do anything. The same words in Article 1, Section 8, have generally been construed as dependent upon the phrase "to levy and collect taxes," etc., and as a limitation of the taxing power rather than as an independent grant of legislative authority. In the decision by which the AAA was declared unconstitutional January 6, 1936, this clause was further weakened by being subordinated to the reserved powers of the states. However, three of the Justices dissented from this interpretation. Obviously these words could not reasonably be construed to validate legislation which affected only one or a few states or one small group of the citizens. But the agricultural industry and the farming population of the United States do not fall under these categories.

Taking the words as they stand and in conjunction with other parts of the Constitution and in the light of the debates in the Constitutional Convention, "promote the general welfare" authorizes a very wide measure of general legislation, of legislation which affects the community as a whole. These words could be honestly and reasonably so construed by the Supreme Court. Indeed the clause "promote the general welfare" has potentialities for industrial

¹ *Our Ineffective State*, William F. Hessler, p. 185.

legislation and industrial reform which have not begun to be actualized by either the Court or the Congress. Without violating either the letter or the spirit of the Constitution, they could be so interpreted as to validate minimum wage and maximum hour legislation, collective bargaining laws, a revised NRA and an improved AAA. Whether the clause be construed as dependent upon the taxing clause in the same paragraph or coördinate with it, would make no practical difference when the time came to draft the necessary laws.

There is another portion of the Constitution which could be utilized to authorize a pretty large program of economic legislation; that is, the clause which gives Congress power to "regulate commerce among the several states." Unlike the "general welfare" clause, this provision seems to be more restrictive in its wording than in some of its judicial interpretations. On its face, it seems to cover only the processes, content, and instrumentalities of interstate traffic, transportation and intercourse. The Supreme Court has frequently held that activities and transactions which "affect" interstate commerce are also subject to the power of Congress. From 1935 to 1937, this interpretation was narrowed, in the decisions on the NIRA and the Guffey Act. In these cases, the Court declared that "enterprises and transactions" which affect interstate commerce only "indirectly" may not be regulated by Congress; hence, the federal government could not legislate concerning production, nor the wages paid in the processes of production. However, in April, 1937, it again reversed the trend in decisions on the Wagner-Connery Labor Relations

Act and in a wider interpretation of matters that "affect" and "burden" interstate commerce brought production itself to a degree under the jurisdiction of the federal government.

By way of summary, it may be stated that Catholic doctrine accords to the state very comprehensive authority over economic affairs, but that the economic power granted by the Constitution to Congress is considerably less than the functions of the state as specified by Catholic teaching. Nevertheless, the Constitutional power of Congress in this field is considerably greater than is commonly assumed.

II. Private Property

The right of individual ownership is strongly asserted in both of the great Papal Encyclicals. This right, said Pope Leo, is from nature not from the state, a principle which was confirmed and restated by Pius XI. However, both Pontiffs added certain qualifications or supplementary statements to the main doctrine. According to Leo XIII, the policy of the law should be "to induce as many as possible to become owners." Pius XI declared that wages should be sufficiently high to enable the worker "to acquire a certain moderate ownership." This doctrine is quite different from the assumption of modern plutocracy that, if the institution of private ownership be preserved, its distribution among the masses is a matter of comparative indifference. The second qualification introduced by both Leo and Pius concerns the right use of property. Said the latter:

It follows from the twofold character of ownership, which we have termed individual and social, that men must take into

account in this matter not only their own advantage but also the common good. To define in detail these duties, when the need occurs and when the natural law does not do so, is the function of the government.

This doctrine is likewise in sharp contrast with the individualistic, irresponsible conception of private property which has prevailed in every country, particularly in the United States, since the Industrial Revolution. Catholic teaching very decidedly does not admit that "a man has a right to do what he pleases with his own."

Moreover, says Pope Pius XI, owners must, in accordance with the teaching of the Scripture and the Fathers, hold their superfluous incomes subject to "the grave obligations of charity, beneficence and liberality."

What is the attitude of the Constitution toward property? Perhaps the best answer to this question is found in the statement by the late President Arthur T. Hadley of Yale University, published in *The Independent*, April 16, 1908, and reprinted in a book entitled *The Relation of Government to Property and Industry*, compiled by Samuel P. Orth:

The fact is, that private property in the United States, in spite of all the dangers of unintelligent legislation, is constitutionally in a stronger position, as against the Government and the Government authority, than is the case in any country of Europe. However much public feeling may at times move in the direction of socialistic measures, there is no nation which by its constitution is so far removed from socialism or from a socialistic order. This is partly because the governmental means provided for the

control or limitation of private property are weaker in America than elsewhere, but chiefly because the rights of private property are more formally established in the Constitution itself.

This may seem a startling proposition; but I think a very brief glance at the known facts of history will be sufficient to support and sustain it. For property in the modern sense was a comparatively recent development in the public law of European communities. In the United States, on the contrary, property in the modern sense represents the basis on which the whole social order was established and built up.

Summing up the relation of Catholic doctrine of property to the constitutional doctrine on the same subject, we can conclude that the spirit, if not the letter of the Constitution, is much more favorable to excessively individualistic and irresponsible conceptions of property rights than is the traditional Catholic doctrine, as stated in the Encyclicals of Pope Leo and Pope Pius. It is not too much to say that the philosophy of the Constitution is that of individualism and economic liberalism.

III. Socialism and Communism

Both Leo and Pius condemn Socialism; that is, the theory that all or practically all the instruments of production should be owned and operated by the state. This program both Popes denounced as unjust and unworkable. Concerning Communism, Pope Leo had nothing to say, since the term was not then in general use. Today Communism is substantially the same as the extreme form of Socialism in the time of Leo XIII. Pius XI points out that So-

cialism has changed considerably since the days of his great predecessor. One section, he says, "has degenerated into Communism," which pursues "merciless class warfare and complete abolition of private ownership; . . ." He continues: "We do not think it necessary to warn upright and faithful children of the Church against the impious and nefarious character of Communism."

The Constitution was written before the world had heard of either Socialism or Communism. Inasmuch as the Constitution provides such strong protection for property rights and inasmuch as it does not confer upon Congress the power to set up a collectivist state, it is clearly opposed to both these systems. To the suggestion that the "general welfare" clause might be stretched so far as to authorize either Socialism or Communism, the obvious reply is that such a construction of the clause never entered the minds of the Founding Fathers; moreover, it is out of harmony with both the letter and the spirit of the Constitution, taken as a whole.

On Socialism and Communism, Catholic industrial teaching is in accord with the Constitution. This statement applies to both the words of the document and the interpretations that have been put upon it by the Judiciary.

IV. Economic Domination

This modern development is the object of some of the severest denunciations to be found in both Encyclicals. Here are two sentences from "The Condition of Labor":

A small number of very rich men have been able to lay upon the masses of the poor

a yoke little better than slavery itself. . . . Working men have been given over, isolated and defenseless, to the callousness of employers and the greed of unrestrained competition.

Pope Pius XI is more specific and comprehensive :

It is patent that in our days not wealth alone is accumulated, but immense power and despotic economic domination are concentrated in the hands of a few, who for the most part are not the owners, but only the trustees and directors of invested funds, which they administer at their own good pleasure.

This domination is most powerfully exercised by those who, because they hold and control money, also govern credit and determine its allotment, for that reason supplying, so to speak, the life-blood to the entire economic body, and grasping in their hands, as it were, the very soul of production, so that no one can breathe against their will.

This accumulation of power, the characteristic note of the modern economic order, is a natural result of limitless free competition, which permits the survival of those only who are the strongest, and this often means those who fight most relentlessly, who pay least heed to the dictates of conscience.

This concentration of power has, in its turn, led to a threefold struggle. First, there is the struggle for economic supremacy itself; then the fierce battle to acquire control of the state, so that its resources and authority may be abused in economic struggles; finally, the clash between states themselves. This latter arises from two

causes: because the nations apply their power and political influence to promote the economic advantages of their citizens; and because economic forces and economic domination are used to decide political controversies between nations. . . . Free competition has destroyed itself; economic domination has taken the place of the open market.

From the nature of the document, we should not expect the Constitution to prohibit economic domination. It is mainly positive, making grants of power, rather than negative, issuing prohibitions. Very few of the prohibitions that exist in the Constitution are directed against individuals or corporations; they fall upon Congress and the states and have to do principally with the Bill of Rights. The Eighteenth Amendment was the most conspicuous exception. The Constitution does permit economic domination. The best evidence of this is provided by the two hundred American corporations which in 1932 controlled fifty-six per cent of the corporate wealth.² On the other hand, the Constitution would permit Congress to break up great corporations indirectly through anti-trust acts, taxation and the prohibition of interlocking directorates.

V. Public Ownership of Public Utilities

Two passages in the Encyclicals may be cited to show that Catholic industrial teaching permits government ownership and management of public utility concerns. The first of these is the statement already quoted from Leo's Encyclical, to the general

² *The Modern Economy in Action*, Caroline F. Ware and Gardiner C. Means, p. 16.

effect that public authority may intervene whenever this is the only method to protect the interest of the public or of important social classes. Therefore, public ownership of public utilities is authorized by Catholic teaching whenever this is the only method for abolishing excessive charges imposed upon the consumers; for example, in the case of railroads, water-works, telephones, electric power concerns, et cetera. The statement of Pope Pius on this subject is more specific: "For it is rightly contended that certain forms of property must be reserved to the state, since they carry with them a power too great to be left to private individuals without injury to the community at large."

The words of the Constitution contain no explicit authorization for Congress to engage in this field of activity. In the TVA case, however, the Supreme Court interpreted the "interstate commerce" clause as giving the government the power to sell the surplus electric current which it produces at the Wilson Dam. The current itself and the sale of the same were construed by the Court as incidental features of the government's power on navigable rivers. However, the right of any federal power plant to sell indefinite quantities of current apart from activities connected with navigation has not yet been passed upon by the Court.

Without violating the spirit of the Constitution, the "general welfare" clause could be construed so as to authorize not only federal manufacture and sale of electric current at the Wilson Dam, but also public ownership and operation of any or all public utilities. Of course, the government would be charged with the burden of showing that these ac-

tivities were conducive to the "general welfare." In the endeavor to establish this fact, the government would be greatly aided by the "interstate commerce" clause; for all the more important utilities, specifically, railroads, electric-power production and transmission, telephones and telegraphs operate across state lines. As such, they are subject to regulation by the federal government. Regulation does not of itself include either ownership or operation, but it could easily be construed as implying both in the interest of the general welfare.

In the matter of public ownership and operation of public utilities, the words of the Constitution do not contradict Catholic industrial teaching and they could be so interpreted by the Supreme Court as to harmonize with that teaching.

VI. Wages

The Catholic teaching on this subject is definite and very well known. Here is the famous declaration by Pope Leo XIII:

There is a dictate of nature more imperious and more ancient than any bargain between man and man, that the remuneration must be enough to support the wage-earners in reasonable and frugal comfort. If through necessity or fear of a worse evil, the workman accepts harder conditions because an employer or contractor will give him no better, he is the victim of force and injustice.

While Leo did not explicitly say that he had in mind a wage sufficient for the support of a family, this interpretation is fairly clear from the context

of the paragraph just quoted. At any rate, the right of an adult man to a family living wage has been explicitly laid down by Pope Pius XI:

Every effort must therefore be made that fathers of families receive a wage sufficient to meet adequately ordinary domestic needs. If in the present state of society this is not always feasible, social justice demands that reforms be introduced without delay which will guarantee every adult working man just such a wage.

The Constitution does not contain the word "wages," nor any synonymous term. It lays down no principle on this subject, nor does it explicitly authorize Congress to enact wage legislation. Nevertheless, the "general welfare" clause could reasonably be interpreted as conferring this power. In the minimum wage cases that have been considered by the Supreme Court, this clause has never been cited either favorably or unfavorably. On the other hand, the Supreme Court has interpreted the "due process" clauses in the Fifth and Fourteenth Amendments as making minimum wage legislation unconstitutional, even on behalf of women and children.³ In the *Schechter* (NRA) case, the Court declared that Congress could not fix minimum wages under the "interstate commerce" clause of the Constitution.

It is interesting to compare, or contrast, the ethical theory stressed in the *Adkins* and *Tipaldo* decisions with the ethical principles upon which Pope Leo based his doctrine of the right to a living wage.

³ *Adkins vs. Children's Hospital; Morehead vs. People, et al.*, in rel. *Joseph Tipaldo*.

Leo proclaimed that wages fixed by free contract are not necessarily just wages. In fact, he specifically repudiated the contention that the employer who pays the wage agreed upon "has done his part and is not called upon for anything further." While admitting that "as a rule, workmen and employers should make free agreements and in particular should fully agree as to wages," Pope Leo declared that there is, nevertheless, a principle of the natural law which is superior to the rule of free contract and which requires that the wage be sufficient "to support the wage-earner in reasonable and frugal comfort."

Precisely the opposite doctrine was laid down in the Adkins case. Justice Sutherland, who wrote the majority opinion of the Court, asserted that the cost of living of the worker was "an extraneous circumstance," having "no causal connection with the business or the contract or the work." What Pope Leo called an essential element of justice in the wage contract, the Supreme Court dismisses as "an extraneous circumstance." Pope Leo pronounced remuneration less than a living wage unjust to the worker; the Supreme Court denounced the legal requirement to pay such a wage as "arbitrary and unreasonable" legislation, being a violation of the "liberty" protected by the "due process" clause.

Speaking for the majority of the Court in the Tipaldo case, Justice Butler cited with approval the ethical assumption and arguments contained in the decision in the Adkins case.

In the interest of clearness it may be worth while to restate the issue involved in these two decisions concerning wage legislation. The Fifth Amend-

ment forbids Congress to deprive any person of "life, liberty or property without due process of law." In the Fourteenth Amendment, we find the same prohibition laid down as a restraint upon the states. The Adkins case involved the Fifth Amendment, since it concerned a law enacted by Congress for the District of Columbia, while the Tipaldo case dealt with a law enacted by the state of New York, therefore coming under the Fourteenth Amendment. In both cases, the term "liberty" in the "due process" clause was construed to include "freedom of contract" and this was held to be violated by the statute which required the payment of minimum wages determined by the cost of living. As a matter of fact, the words "freedom of contract" do not occur in the "due process" clause nor anywhere else in the Constitution. They were read into it by the Supreme Court in a series of decisions begun about forty years ago.

The immediately foregoing paragraphs bring out two very important facts: first, that the Constitution can be and has been interpreted in a way to contradict Catholic industrial teaching; second, that there is a vital distinction between the Constitution and its interpretation. The latter fact received dramatic illustration on March 29, 1937, when the Supreme Court reversed its decision in the Adkins and Tipaldo cases and explicitly pronounced the Washington Minimum Wage law constitutional.⁴ Noting that the verdict of unconstitutionality in the two earlier cases had been based upon alleged deprivation of freedom of contract, Chief Justice Hughes declared in the Washington case:

⁴ *West Coast Hotel Company vs. Ernest Parrish and Elsie Parrish.*

What is this freedom? The Constitution does not speak of freedom of contract. It speaks of liberty and prohibits the deprivation of liberty without due process of law. In prohibiting that deprivation the Constitution does not recognize an absolute and uncontrollable liberty. Liberty in each of its phases has its history and connotation. But the liberty safeguarded is liberty in a social organization which requires the protection of law against the evils which menace the health, safety, morals and welfare of the people. Liberty under the Constitution is thus necessarily subject to the restraints of due process, and regulation which is reasonable in relation to its subject and is adopted in the interests of the community is due process. This essential limitation of liberty in general governs freedom of contract in particular.

So, what Justice Holmes termed the dogma "freedom of contract" which the Court had read into the word liberty has now been read out of it by the same Court, differently composed as to personnel. And this interpretation of this part of the Constitution is in complete harmony with Catholic industrial teaching.

The decision in the Washington case is restricted to minimum wages for women and children and applies only to legislation by the states. The reasoning of the Court, however, provides a strong probability that it will uphold state minimum wage laws for male adults. Would it sustain similar legislation by Congress? After all, state minimum wage legislation falls far short of being adequate: some states would not pass the laws for a long time; even if all did so, the statutes would be so lacking in uniform-

ity as to induce unfair competition on the part of industries in the backward states. In view of the decisions handed down, April 12,⁵ on the Wagner-Conerney Labor Relations Act, there is good reason to believe that the Court would uphold as constitutional Federal Minimum Wage legislation applied to labor contracts which in any important way affect interstate commerce. At any rate, the Court could sustain such federal statutes under a liberal interpretation of the "general welfare" clause. The sum of the matter is that the Constitution could be so interpreted as to bring it into complete conformity with the Catholic teaching on wages.

VII. Labor Unions

The Catholic teaching on this subject was clearly set forth by Pope Leo XIII:

We may lay it down as a general and perpetual law, that workmen's associations should be so organized and governed as to furnish the best and most suitable means for attaining what is aimed at; that is to say, for helping each individual member to better his condition to the utmost in body, mind and property.

Pope Pius XI not only repeated this declaration with approval, but added a statement of his own:

At that period rulers of not a few nations were deeply infected with Liberalism and regarded such unions of working men with disfavor, if not with open hostility. While readily recognizing and patronizing similar corporations amongst other classes,

⁵ *National Labor Relations Board vs. Jones and Laughlin Steel Corporation*, and two other cases.

with criminal injustice they denied the innate right of forming associations to those who needed them most for self-protection against oppression by the more powerful. There were even Catholics who viewed with suspicion the efforts of the laboring classes to form such unions, as if they reflected the spirit of socialistic or revolutionary agitators.

The Constitution does not, in specific language, confer upon Congress the power to regulate, favor or prohibit labor unions. Nevertheless, Congress has enacted the Wagner-Connery Labor Relations Act which is in complete harmony with Catholic doctrine and the main provisions of which are as follows:

Employees have the right to organize and to bargain collectively through representatives of their own choosing; employers are forbidden to interfere with, restrain or coerce employees in the exercise of these rights, to dominate or interfere with the formation or administration of any labor organization, to discriminate in any way against employees because of their membership in labor unions or to refuse to bargain collectively with the representatives of their employees.

The authors and sponsors of this act have relied upon the "interstate commerce" clause to make it constitutional, at least as applied to concerns engaged in interstate commerce or affecting interstate commerce. That their hopes were not misplaced is shown by the decisions referred to in the last paragraph of the previous section. If the scope of these decisions is not sufficiently broad to cover all

the industries and labor relations that ought to be covered, the deficiencies could be supplied through a liberal interpretation of the "general welfare" clause. A law providing for fair relations between employer and employee would surely "promote the general welfare."

VIII. Relations Between Capital and Labor

Pope Leo declared that "capital cannot do without labor, nor labor without capital," pointing out in detail the duties of each class to the other, and then asked the question: "Were these precepts carefully obeyed and followed, would not strife die out and cease?" Pope Pius quoted these statements of his predecessor with approval and added: "Now this is the primary duty of the state and of all good citizens, to abolish disputes between opposing classes and to create and foster harmony between vocational groups." Continuing, he deplored the conditions and the attitudes prevailing today which divide the industrial world "into two sections, resembling armies; and the disputes between these sections transform the labor market into an arena where the two armies are engaged in fierce combat."

While the Constitution contains no specific reference to this matter, the "general welfare" clause could be so interpreted as to validate a variety of effective measures for the maintenance of harmony between the two great industrial groups.

IX. The Distribution of Wealth and Income

Although Pope Leo did not discuss this question formally, he made a few pretty severe observations thereon. Two of them have been cited above in the

section on Economic Domination. In the Encyclical of Pope Pius XI, we find several condemnations of the inequitable distribution of wealth. For example:

The immense number of propertyless wage-earners on the one hand, and the superabundant riches of the fortunate few on the other, is an unanswerable argument that the earthly goods so abundantly produced in this age of industrialism are far from rightly distributed and equitably shared among the various classes of men.

Every sincere observer is conscious that the vast differences between the few who hold excessive wealth and the many who live in destitution constitute a grave evil in modern society.

Here is what the same Pontiff says about the right distribution of income:

. . . Wealth therefore, which is constantly being augmented by social and economic progress, must be so distributed amongst the various individuals and classes of society, that the needs of all, of which Leo XIII spoke, be thereby satisfied. In other words, the good of the whole community must be safeguarded. By these principles of social justice, one class is forbidden to exclude the other from a share of the proceeds. . . .

Each one, therefore, must receive his due share, and the distribution of created goods must be brought into conformity with the demands of the common good or social justice. . . .

. . . nevertheless, the immense number of proletarians on the one hand, and the enormous wealth of the very rich on the other, are an unanswerable argument that

the material goods so abundantly produced in this age of industrialism are far from rightly distributed and equitably shared among the various classes of men.

Every effort therefore must be made that at least in future a just share only of the fruits of production be permitted to accumulate in the hands of the wealthy, and that an ample sufficiency be supplied to the workers.

There is no specific declaration in the Constitution on this subject, but the "general welfare" clause could be so construed as to authorize congressional legislation for a better distribution. Something has been done in this direction already through the laws requiring the payment of progressive taxes on income, inheritance, excess profits and the undistributed surpluses of corporations.

X. A Reconstructed Economic Order

By far the most important part of Pius XI's Encyclical is that which describes the new form of economic organization which the Holy Father would put in the place of the present industrial system. His proposals under this head constitute not merely a reform of the present order, but in a fundamental sense, a reconstruction of that order.

The two central ideas of the Pope's plan are co-operation and industrial self-government. He desires the abolition of conflicts between capital and labor and a combination of the two parties into a system of occupational groups. These organizations, says the Pope, "would bind men together, not according to the position which they occupy in the

labor market, but according to the diverse functions which they exercise in society.”

In other words, these organizations would comprise both employers and employees, both capitalists and laborers. The occupational group would be empowered by law to fix wages, interest, dividends, and prices, to determine working conditions, to adjust industrial disputes, and to carry on whatever economic planning was thought feasible. All the groups in the several concerns of an industry could be federated into a national council for the whole industry. There might also be a federation of all the national councils into a supreme council for all the industries of the nation. The occupational groups, whether local or national, would enjoy power and authority over industrial matters coming within their competence. This would be genuine self-government in industry.

Of course, the occupational groups would not be entirely independent of the government. No economic group, whether of capitalists or laborers, or of both in combination, can be trusted with unlimited power to fix their own profits and remuneration. While allowing to the occupational groups the largest measure of reasonable freedom in the management of their own affairs, the state, says Pius XI, should perform the tasks which belong to it and which it alone can effectively accomplish, namely, those of “directing, watching, stimulating and restraining, as circumstances suggest or necessity demands.”

Could the Congress of the United States establish such a system within the framework of the Constitution? Undoubtedly it could under a suitable

interpretation of the "general welfare" clause. The codes and code organizations which were set up under the NRA comprised most of the elements of the occupational group system. They were invalidated by the Supreme Court on the ground that they involved an unconstitutional delegation of legislative power, and that they attempted to regulate intra-state as well as interstate commerce. The first difficulty could be easily removed. The second could be overcome by a sufficiently liberal interpretation of the "general welfare" clause. If Congress has the constitutional power to provide for the general welfare, then it has authority to set up an institution which is properly required by the general welfare; namely, a system of occupational groups.

XI. Conclusion

Owing to its nature and scope, the Constitution of the United States presents comparatively few points of contact with Catholic industrial teaching. By far, the greater part of the document consists of a description of the form and elements of our federal system of government. It contains a few prohibitions and a few grants of power, some of them addressed to Congress and some to the several states. The industrial functions specifically conferred by the Constitution upon Congress are not so extensive as those accorded to the civil power in Catholic teaching. As regards property, the doctrine and spirit of the Constitution are more individualistic than is the teaching of the Catholic Church; moreover, this excessive individualism found in the Constitution itself has been considerably increased by judicial interpretations of the "due process" clause. Concerning eco-

conomic domination and public ownership, the "general welfare" clause of the Constitution could reasonably be so construed as to bring it into harmony with Catholic doctrine. As noted above, the decisions handed down by the Supreme Court, March 29 and April 12, 1937, have brought the Constitution into agreement with the Catholic industrial teaching on wages and labor unions. The "general welfare" clause could be construed so as to bring the Constitution into substantial harmony with the Catholic doctrine on the distribution of wealth and income and on a reconstructed social order. In itself, therefore, the Constitution is fairly favorable to Catholic industrial teaching.

N. C. W. C. STUDY CLUB OUTLINE

I. THE STATE

A. Catholic Teaching

1. What is the Catholic teaching as to nature, end and functions of state?

B. The Constitution

1. Under the Constitution what powers may be exercised by the Federal Government? Upon whom do all other political functions devolve?
2. What are the "general welfare" clauses in the Preamble and in Article 1 of the Constitution?

C. Interpretation

1. Discuss Hessler's statement on the relationship of the Constitution to constitutional law.
2. What is the Court's interpretation of the "general welfare" clause in the Preamble? In Article 1? How was this clause affected by the AAA decision? Possibilities of its interpretation with regard to laws affecting the whole community?
3. What are the possibilities of the "interstate commerce" clause as to a program of economic legisla-

tion? How affected by the Guffey, NIRA and Wagner decisions?

II. PRIVATE PROPERTY

- A. Catholic Teaching
 1. What is the papal teaching on the right of individual ownership? Compare with modern plutocracy's assumption.
 2. Discuss Pope Pius' statement on the right use of property and contrast with individualist teaching.
- B. The Constitution
 1. What is the position of property as against government in the United States and in Europe, from both negative and positive angles? Why?
 2. Which is more favorable to wide distribution of ownership—the Constitution or Catholic teaching?

III. SOCIALISM AND COMMUNISM

- A. Catholic Teaching
 1. Define Socialism and Communism and point out the attitude of Leo XIII and Pius XI respectively to each of them.
- B. The Constitution
 1. For what two reasons is the Constitution opposed to both these systems?
- C. Interpretation
 1. Could the "general welfare" clauses be stretched to authorize either? Why not?
 2. Compare the Constitution and Catholic industrial teaching on this point.

IV. ECONOMIC DOMINATION

- A. Catholic Teaching
 1. Describe Pope Leo's condemnation.
 2. Discuss the various points of Pope Pius XI's denunciation.
- B. The Constitution
 1. Does the Constitution prohibit economic domination? Why? Permit it?
 2. Through what means does the Constitution permit Congress to curb corporations?

V. PUBLIC OWNERSHIP OF PUBLIC UTILITIES

- A. Catholic Teaching
 - 1. When is public ownership authorized by Catholic teaching?
- B. The Constitution
 - 1. Is there authority in the Constitution for Congress to engage in this field?
- C. Interpretation
 - 1. Give interpretation of "interstate commerce" clause in the TVA case. Would this interpretation hold in all cases?
 - 2. Could the "general welfare" clause be construed to authorize public ownership? Possibilities of "interstate commerce" clause? What does the term "regulation" imply?

VI. WAGES

- A. Catholic Teaching
 - 1. What is Pope Leo's teaching on: The worker's right to a living wage? The individual worker's bargain for less than a living wage?
 - 2. What did Pope Pius XI say on the family wage?
- B. The Constitution
 - 1. Is Congress given explicit authorization to enact legislation on this subject?
- C. Interpretation
 - 1. Compare Pope Leo's principle on the cost of living in its relation to a "free contract" with the doctrine laid down in the Adkins and Tipaldo cases.
 - 2. What are the "due process" clauses? Which Amendment was involved in the Adkins and Tipaldo cases respectively?
 - 3. Discuss the use of the term "freedom of contract" in these two cases, and the interpretation of "liberty" given in the Parrish case.
 - 4. For what groups does the Parrish decision declare state minimum wage laws constitutional? Could the decision be used in favor of similar state laws for men, or for similar national legislation? Why are state minimum laws inadequate?

5. What decision could be used to uphold federal minimum wage legislation in certain cases? What other clause could be construed to sustain such legislation?

VII. LABOR UNIONS

A. Catholic Teaching

1. Quote Pope Leo on (a) the organization and (b) the aims of labor unions.
2. What did Pope Pius have to say on the opposition of governments and of some Catholics to labor unions?

B. The Constitution

1. Is there any specific language in the Constitution regarding labor unions?
2. Discuss the Wagner-Connery Labor Relations Act, as to:
 - (a) Right of employees to organize and bargain collectively;
 - (b) Employer interference, discrimination and refusal to bargain with representatives of employees.

C. Interpretation

1. On the basis of what clause, in what decisions, was this Act declared Constitutional?
2. What other clause could be interpreted to care for any deficiencies in the application of the interstate commerce clause to collective bargaining?

VIII. RELATIONS BETWEEN CAPITAL AND LABOR

A. Catholic Teaching

1. On mutual interdependence.
2. On the duty of the state and of citizens in this connection? Condemnation of existing conditions.

B. The Constitution

1. Does the Constitution say anything specific on the matter?

C. Interpretation

1. What clause might be invoked to validate measures looking to harmony?

IX. DISTRIBUTION OF WEALTH AND INCOME

A. Catholic Teaching

1. Cite observations of Popes Leo and Pius on existing unequal distribution.
2. What does Pius XI say on the right distribution of income?

B. The Constitution

1. Does the Constitution say anything specific?

C. Interpretation

1. What clause could be invoked to authorize legislation for better distribution?
2. What has been done in this direction?

X. RECONSTRUCTED ECONOMIC ORDER

A. Catholic Teaching

1. What is the most important part of Pius XI's Encyclical?
2. What are "vocational groups"? Discuss them in detail.

B. The Constitution

1. Could such a system be established in the United States Constitution? How? What experiment was an approach?

C. Interpretation

1. On what two grounds was the NIRA invalidated? How could these be overcome?

XI. CONCLUSION

1. Describe the nature and scope of the Constitution.
2. Compare the industrial functions of Congress under the Constitution and of the government under Catholic teaching.
3. What are the possibilities of conformity as regards: (a) Property; (b) Economic domination; (c) Public ownership; (d) Wages; (e) Labor Unions; (f) Distribution of wealth; (g) A reconstructed social order.

SELECTED REFERENCES

(All pamphlets available at N. C. W. C. 10 cents each)

General:

Pope Pius XI's Encyclical "Reconstructing the Social Order."

Pope Leo XIII's Encyclical "The Condition of Labor."
"Toward Social Justice" by R. A. McGowan.

"The Catholic Teaching on Our Industrial System" by John A. Ryan.

On the State:

Papers in "The State and Church" by Ryan and Millar (book), N. C. W. C.

"What Laws Must We Have?" by Elizabeth Morrissy.

Socialism and Communism:

Pope Pius XI's Encyclical "Atheistic Communism."

"A Cure for Communism" by R. A. McGowan.

Private Property:

"Christian Doctrine of Property" by John A. Ryan.

Economic Domination:

"Economic Dictatorship" by George Brown.

Public Ownership:

"The Proper Field of Public Ownership" in "Seven Troubled Years" by J. A. Ryan (N. C. W. C.), \$3.00.

Wages:

"Wages and Hours of American Labor" by Francis J. Haas.

Labor Unions: and Relations Between Capital and Labor:

"The American Labor Movement" by Francis J. Haas.

Distribution of Wealth and Income:

"Economic Dictatorship" by George Brown.

A Reconstructed Social Order:

"New Guilds" by R. A. McGowan.

"Organized Social Justice."

SUGGESTIONS FOR STUDY CLUBS OR COMMITTEES ON INDUSTRIAL QUESTIONS

1. The study club is not a group to listen to lectures. It is for joint discussion. It is small—ten or twelve to twenty or so—so as to permit general discussion.
2. There is a discussion leader.
3. The group may consist of persons of various occupations and interests or of special groups, such as organization leaders, employers, professional persons, clerical workers, manual workers, etc. A number of small study groups established within each organization is desirable.
4. Meetings are once a week or once every two weeks or once a month.
5. Every member should have at least the text and the outline.
6. The discussion, as a rule, follows the outline point by point. The section of the text to be discussed should be read before the meeting by each member.
7. Use questions at the end of the meeting to recapitulate.
8. Reports or papers called for by any outline should be brief.
9. The purposes are:
 - (a) So its members will know the teaching of the Church on economic life.
 - (b) So they can speak at Catholic meetings.
 - (c) So they can be leaders in the activity of Catholic organizations.
 - (d) So they can apply the teachings in their work and civic life.
 - (e) So they can guide the economic organization to which they belong.
 - (f) So that they will be better Catholics.
10. If the group is an offshoot or a part of another organization they should report their conclusions to the parent organization, because one of the chief purposes of the club or committee is to pass on their information, point of view and enthusiasm to the Catholics of their community and to make the club's work definitely a part of the parent organization's work.

For further information and assistance, write:

**National Catholic Welfare Conference,
Social Action Department
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